IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6894 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE K.M.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

GUJARAT STATE ROAD TRANSPORT CORPORATION

Versus

RAMNIKLAL N. RATHOD

Appearance:

1. Special Civil Application No. 6894 of 2001

MRS VASAVDATTA BHATT for Petitioner No. 1

MR RD RAVAL for Respondent No. 1

CORAM : MR.JUSTICE K.M.MEHTA

Date of decision: 07/09/2001

ORAL JUDGEMENT

Rule.

Gujarat State Road Transport Corporation (hereinafter referred to as `GSRTC')-petitioner has filed this petition challenging the judgement and award dated 28.11.2000 passed by the Industrial Tribunal, Bhavnagar, in Reference (IT) No. 89 of 1998. The Tribunal was pleased to accept Reference of the Corporation partly. The Tribunal was pleased to quash and set aside the order

dated 29.8.1995 passed by the Competent Authority imposing punishment on the workman and further imposed stoppage of two increments without future effect on the workman Shri Ramniklal N. Rathod. The Corporation was directed to pay arrears of salary in this behalf.

2. In the petition, it has been stated that on 20.2.1995 when the respondent workman was on duty with the S.T. Corporation, the respondent workman was found negligent in discharging his duties. The respondent workman has committed mistake by not mentioning the closing number 95911195 instead of 9591155. The respondent has wrongly calculated and committed mistake in accounts.

3. In view of the same, the Corporation issued charge sheet against the respondent and also initiated departmental inquiry. At the conclusion of the inquiry, the respondent was found guilty and the competent authority has imposed penalty vide its order dated 29.8.1995. The Competent Authority has directed that the respondent workman may be put at the basic salary in this behalf. It has been stated that the conductor could not be able to deposit Rs. 460/- as accounts of 40 tickets. That is the reason for imposition of the said punishment. Thereafter, the matter was referred to the Tribunal. Before the Tribunal it was contended that there was only charge of negligence against the workman. It was stated that the finding arrived at by the competent authority is perverse and there is violation of rule of natural justice. It was stated that there was only one booking clerk and there were large number of conductors and therefore the workman by mistake-pressure of work could not be able to deposit the amount. The same was treated bona fide mistake. There was no chance of misappropriation of money in this behalf. It was submitted that the workman was serving for 25 years with the S.T. Corporation and it was his first lapse of duty. Only 5 years' service is left of the respondent workman with the Corporation. In view of the same the Tribunal was pleased to partly accept the Reference and set aside the order dated 29.8.1995 passed by the Depot Manager, Mahuva (competent authority) of putting the workman at his original position. The Tribunal only imposed stoppage of two increments without future effect.

3. Being aggrieved and dissatisfied with the aforesaid order of the Tribunal, the Corporation has filed this Special Civil Application before this court. Ms. Bhatt appeared on behalf of the Corporation. She has vehemently contended that the Tribunal ought not to

have substituted the imposition of punishment which has been made by the competent authority. She submitted that as the respondent workman was negligent in depositing Rs. 460/- the competent authority was justified in imposing the punishment of putting the workman at his original pay scale.

4. The learned counsel for the petitioner has also made available the record of the case and I have gone through the same. I have also gone through the necessary evidence on record. I have heard Mr. R.D. Raval, learned advocate for the respondent workman. He submitted that the workman has already worked for 25 years and only 5 years' services are left with the service of the Corporation. He submitted that there is only charge of negligence and there is no question of misappropriation in this behalf.

5. In my view, looking to the peculiar facts and circumstances of the case when the workman has worked with the Corporation for 25 years and only 5 years' services are left out and when there is only charge of negligence and there is no charge of misappropriation, the Tribunal has exercised jurisdiction under Section 11A of the Act rightly. In my view the Corporation has not dismissed the workman from service and only imposed penalty of putting the workman on his original pay scale which order has been interfered by the Tribunal under Section 11A of the Act and imposed punishment of stoppage of two increments without future effect. In my view the Tribunal has exercised discretionary jurisdiction in this behalf. I do not find any reason to interfere with the award of the Tribunal. There is no error apparent on the face of the record and looking to the facts and circumstances of the case, the petition is dismissed. Rule discharged. No order as to costs. This matter is decided in view of the peculiar facts and circumstances of the case. This decision is not to be treated as precedent in the future months.

(K.M. MEHTA, J)

(pkn)